

UNAPPROVED MINUTES
CITY OF MILPITAS

Minutes:	Regular/Special Meeting of Milpitas City Council (Including Joint Meeting with Redevelopment Agency)
Date of Meeting:	February 3, 2004
Time of Meeting:	4:30 p.m. (Closed Session) 7:00 p.m. (Regular Session)
Place of Meeting:	City Hall Council Chambers, 455 E. Calaveras Blvd.

ROLL CALL

Mayor Esteves called to order the regular and special meetings of the Milpitas City Council at 4:30 p.m. Present were Mayor Esteves, Vice Mayor Dixon, and Councilmember Polanski. Councilmember Livengood arrived at 4:35 p.m. and Councilmember Gomez arrived at 4:45 p.m.

CLOSED SESSION

Mayor Esteves publicly stated the Council would convene in Closed Session to discuss the following three items listed on the agenda:

1. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
(Pursuant to Government Code Section 54957)
Title: City Manager
2. **CONFERENCE WITH LABOR NEGOTIATOR**
(Pursuant to Government Code Section 54957.6)
Unrepresented Employee: City Manager
3. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR**
(Pursuant to Government Code Section 54956.8)
Property: APN Nos. 86-12-015, 86-12-016, and 86-12-020
Negotiating Party: Milpitas Redevelopment Agency
Under Negotiation: Terms and Conditions for Acquisition of Property

Mayor Esteves adjourned the meeting to closed session at 4:31 p.m.

The City Council meeting reconvened at 7:00 p.m. with Mayor Esteves presiding and Vice Mayor Dixon and Councilmembers Gomez, Livengood, and Polanski present.

**CLOSED SESSION
ANNOUNCEMENTS**

There were no Closed Session announcements.

PLEDGE

Members of Troop No. 92 led the Council and audience in the Pledge of Allegiance.

MINUTES

MOTION to approve the City Council minutes of January 20, 2004, including joint meeting with the Redevelopment Agency, as submitted.

M/S: Gomez, Polanski.

Ayes: 5

SCHEDULE

MOTION to approve the Schedule of Meetings for February 2004, as submitted.

M/S: Gomez, Polanski.

Ayes: 5

PRESENTATIONS

Mayor Esteves read a letter from Governor Schwarzenegger congratulating the City of Milpitas on the occasion of its 50th anniversary of incorporation. Mayor Esteves presented the letter to the City Clerk for the City's archives.

Mayor Esteves read a proclamation recognizing Cliff Williams for his contribution to the City as an original member of the Telecommunications Commission and as a member of the Planning Commission and presented it to Mr. Williams. Mr. Williams thanked the Councils,

present and past, which he tried to model after, and said he couldn't have served the community without the support of his wife, Gail, and daughter, Michelle, who joined him at the podium.

Vice Mayor Dixon commented that she had worked with Cliff for four years on the MidTown Specific Plan and appreciated his willingness to always think outside the box and because of that, many things that we thought we were not ready for are part of the MidTown Plan. Vice Mayor Dixon further commented that she understood that Mr. Williams was running for the Assembly and wished him luck. Mayor Esteves added his thanks stating that Mr. Williams was an exemplary leader.

Mayor Esteves read a proclamation recognizing February as "Black History Month" and presented it to representatives of the Sunnyhills neighborhood. One of the representatives thanked the Mayor and Council saying they were honored to receive this proclamation in honor of Dr. Martin Luther King.

CITIZENS FORUM

Mayor Esteves invited members of the audience to address the Council on any subject not on the agenda, requesting that remarks, including any visual or technology-assisted presentations of any kind, be limited to two minutes or less, and noted that the City Clerk would be using the timer and when the red light at the podium came on, two minutes would be up.

Mr. Swanson commented on the importance and worth of the place value system.

Lorraine Hepworth encouraged everyone to participate and support this year's American Cancer Society Relay for Life June 25-26 at the Sports Center, introduced Ingrid Dick from the American Cancer Society, and thanked the Council for its past and present support. Ingrid Dick also thanked the Council for its support on behalf of the many cancer patients in Santa Clara County who will directly benefit from the money raised. Mayor Esteves expressed his appreciation to Ms. Hepworth for again leading this year's Relay and encouraged everyone to participate.

Frank DeSmidt invited everyone to the Chamber's Crab Feed on February 27 at Napredak Hall and announced the second "Good Morning Milpitas Breakfast" on February 20 sponsored by the Chamber and featuring Ysabel Duron who would be speaking on "TV News, Politics, and You the Viewer."

Rob Means shared a resolution passed by the Duluth, Minnesota City Council supporting a proposal to locate PRT certification track in Duluth. Mr. Means said he was mentioning this because some people in Milpitas were concerned about this being experimental and Milpitas being too small, so he hoped Duluth, with a population of 90,000, would help alleviate those concerns.

Carmen Montano expressed concern that the Terrace Gardens Board of Directors advertised for two openings on the Board, received two applications, and considered the applications behind closed doors. Ms. Montano said she believed the Terrace Gardens Board was subject to the Brown Act and questioned why they were discussing the applications in private.

ANNOUNCEMENTS

Councilmember Polanski thanked everyone who attended the January 26th Celebration at City Hall, thanked the volunteer staff for all their help, especially Cindy Maxwell, the 50th Committee staff liaison; announced that the different activities can be viewed on the City's web site; and held up a copy of the Milpitas history book published in collaboration with the Milpitas Post, that covered five dynamic decades and was available for \$25 from the Information Desk at City Hall.

Vice Mayor Dixon requested a staff report within the next Council meeting cycle on the current status of the Los Esteros Peaker Power Plant located on the Milpitas boarder, particularly the landscaping issue. Vice Mayor Dixon reported that she attended first standing VTA Committee for Finance and Administration and commented that accusations made by a

Policy Advisory Committee member from the city of Mountain View were his own opinions, the VTA had responded along with a critical review by a well known transportation specialist, and a letter was also written by the VTA Chairman, Supervisor Don Gage but nothing had been seen in the newspaper yet. Vice Mayor Dixon further reported the upcoming VTA Board meeting on Thursday, February 5, 2004, would be a very important meeting, especially for the citizens of Milpitas, not only would the focus be on the 19 recommendations proposed by last year's Ad Hoc Financial Stability Committee but on the remainder of the year to identify further cuts and additional revenue streams; she would continue to represent the will of the voters in their support to bring BART to Santa Clara County. Vice Mayor Dixon further stated last week she had met with the Joint Powers Authority for the Santa Clara County Library System; the initial budget showed a potential \$600,000 deficit whether the March ballot measure to extend the current assessment passes or fails; the Authority decided not to wait until the State passed its budget and voted to eliminate an \$80,000 position for illiteracy advocate and more cuts were inevitably on the way. Vice Mayor Dixon said she had received a communication from the Milpitas Chamber of Commerce stating that the Chamber and the business community supported the County Libraries and Measure B, and she thanked the members of the Chamber present in the audience. Vice Mayor Dixon said she heard resident concerns of those who lived behind the Town Center Shopping complex regarding the proposed renovation plans being submitted by Shapell within the next month to the Planning Commission; Safeway representatives were a part of the presentation and offered to work with the residents.

Vice Mayor Dixon said she had the pleasure to represent the Council for the debut of "Good Morning Milpitas," which was a new venue the Chamber was producing; the first guest speaker was Supervisor McHugh, Milpitas' former Mayor, who delivered a dire financial outlook for the status of the County; and wished him well and the strength it would take as he tackled the many challenges to come this year as the Chair of the Board of Supervisors for 2004.

Vice Mayor Dixon represented the Council at the first ever Milpitas Unified School Band Festival, where over 567 students that filled the gym; felt the performance was outstanding; and acknowledged Superintendent Karl Black and many others for a job well done.

Councilmember Livengood, addressing Ms. Montano's comment regarding the selection of Terrace Gardens Board members, which he was not interested in getting involved in as it was a Terrace Gardens issue per se, said he felt they should choose the people they wanted but it seemed strange to him that Terrace Gardens would not be under the purview of the Brown Act. Councilmember Livengood requested a report back from the City Attorney as to whether or not Terrace Gardens is exempt from the Brown Act.

Councilmember Livengood congratulated all the people who were involved in the 50th Anniversary event.

Mayor Esteves thanked Councilmember Polanski and all those involved in the 50th Anniversary program; and he had received positive feedback from both within and without the City, which made him proud to be the Mayor of the City of Milpitas.

Mayor Esteves reported he participated in the celebration of the Milpitas Chinese School and thanked the Vietnamese community for allowing him to be part of the Vietnamese Spring Festival and Parade; and congratulated the cast and directors of "Hobbit."

Mayor Esteves requested staff provide a report on the City's building permit process, where the City is, how it is doing, how many applications are approved in one day, and about the on-line process.

Councilmember Polanski, addressing the Terrace Gardens Board of Directors and Councilmember Livengood's request of staff, stated the Board of Directors received a

rendering from an attorney on the Brown Act relative to the Terrace Gardens Board of Directors and the City Attorney might also like to receive that information.

AGENDA

City Attorney Steve Mattas asked that item 9 (Budget Appropriation and Construction Contract for Berryessa Creek Trail, Reach 3) be removed from the agenda; a bid protest had been filed and staff would like time to review the matter and report back at the next meeting.

MOTION to approve the agenda as amended by the removal of item 9.

M/S: Gomez, Livengood.

Ayes: 5

CONSENT CALENDAR

Mayor Esteves inquired if anyone wished to make any changes to the Consent Calendar.

MOTION to approve the Consent Calendar, items with asterisks on the agenda, as submitted in accordance with the staff recommendations.

M/S: Gomez, Polanski.

Ayes: 5

***2. Appointments**

Approved the Mayor's appointments and reappointment as follows:

Community Advisory Commission

- Reappoint Sudhir Mandal to a new four-year term expiring January 2008;
- Appoint Craig Ranker (from Alternate 1) to a regular position for a term expiring January 2008 (resignation of Al Garcia);
- Appoint Chris Lee (from Alternate 2) to a regular position for a term expiring January 2008 (Guadalupe Ortiz, Jr. term expiration);
- Appoint Nestor Luna (from Alternate 3) to a regular position for a term expiring January 2006 (Sam Robinson resignation);
- Move Jenifer Lind from Alternate 4 to Alternate 1 (term expiring January 2005);
- Appoint Danny Fang to Alternate 2 (term expiring January 2006); and
- Appoint Michael Queenan to Alternate 3 (term expiring January 2006).

Sister Cities Commission

- Appoint Linda Downey (from Alternate 1) to a regular position for a term expiring September 2004 (resignation of Jenifer Lind)
- Move Roselda Mateo from Alternate 2 to Alternate 1 (term expiring September 2004); and
- Appoint Massoud Arefi to Alternate 2 (term expiring September 2005).

***4. Family Child Care Assistance Fund**

Approved the proposed changes to the Family Child Care Assistance Fund policies and procedures to be effective July 1, 2004.

***5. Wireless Technology (Public Safety)**

Authorized the City Manager to execute an agreement with Tropos Networks, Inc. for a grant of equipment and services as part of a demonstration program for wireless technology in Public Safety, subject to approval as to form by the City Attorney.

***6. Santa Clara County Partnership for School Readiness**

Approved request of \$1,000.00 from the Council's Community Promotions Budget to fund the Santa Clara County Partnership for School Readiness' request to support the Santa Clara County Kindergarten School Readiness Assessment Project.

***7. Marquee Request**

Approved Annell Spencer's request to use marquee (February 4th - 14th) to display the following: "Milpitas Library, Book Sale, Romance & Computer, Feb 14th 10am-4pm."

***8. N. McCarthy Boulevard**

Adopted Resolution No. 7383 summarily vacating 7 feet of landscape and sidewalk easement along a portion of N. McCarthy Boulevard (Project No. 3030).

(Project No. 3030)

- ~~*9. Berryessa Creek Trail, Reach 3 (Project No. 5074)~~ 1. Approved a budget appropriation of \$90,000 from the Park Fund.
2. Awarded construction contract for Berryessa Creek Trail, Reach 3 (Project No. 5074) to Bugler Construction, conditioned upon Staff confirming that Bugler Construction has met the federally mandated DBE requirements. If Bugler Construction has not met the DBE requirements, the construction contract shall be awarded to the next lowest responsive bidder who has met the DBE requirements, and whose bid is below the project budget.

*10. Edsel Court Apartments (Project No. 2295) Approved the Permittee Dedication and Improvement Agreement with Edsel Court Apartments (Project No. 2295) and authorized the City Manager to execute the same, subject to the approval as to form by the City Attorney.

*11. Miscellaneous Vendors Approved the following purchase requests:

1. \$5,538.65 to Stewart & Stevenson for emergency transmission repair and motor mount replacements on Fire Engine No. 3 for the Fleet Maintenance Division. (Funds are available from the Public Works Department operating budget for these services.)
2. \$17,244.80 to Target Specialty Products for the purchase of systemic insecticides to provide annual control of aphids on Modesto Ash and other susceptible street trees for the Tree and Landscape Maintenance Division. (Funds are available from the Public Works Department operating budget for this purchase.)
3. \$11,625.04 to National Energy Foundation for the purchase of water efficiency educational program material kits for teaching 5th grade students at five schools the water wise program for the Utility Engineering Division. (Funds are available from the Engineering Department operating budget for this purchase.)
4. \$5,000.00 to Alliance Occupational Medicine, Inc. to provide new hire medical exams and tests, vaccines, and minor medical needs of existing staff. (Funds are available from the Human Resources Department operating budget for these services.)
5. \$5,071.62 to Milpitas Printing for the printing of two sided, four color door hangers outlining the odor complaint process per the City's Odor Outreach Plan for the Utility Engineering Division. (Funds are available from the Engineering Department operating budget for this purchase.)

PUBLIC HEARINGS (NONE)

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA1. CALL TO ORDER Mayor Esteves called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:40 p.m.

RA2. ROLL CALL Present were Mayor Esteves, Vice Mayor Dixon, and Agency/Councilmembers Gomez, Livengood, and Polanski.

RA3. MINUTES MOTION to approve the Redevelopment Agency minutes of January, 2004, including joint meeting with the City Council, as submitted.

M/S: Gomez, Livengood. Ayes: 5

RA4. AGENDA MOTION to approve the Agenda and Consent Calendar as submitted.

M/S: Gomez, Livengood. Ayes: 5

**RA5.
LIBRARY PROJECT UPDATE**

Assistant City Engineer Greg Armendariz reported that several pre-design elements for the Library were underway and some design work was also currently underway for relocation of the Public Works Corporation Yard and undergrounding of utilities. Mr. Armendariz further reported that last week the subcommittee heard a presentation from the consultant architect on the final draft of the building program; the subcommittee directed that it be brought to the Council at the next Council meeting; also before the Council on February 17, 2004, will be a complete cost plan.

Vice Mayor Dixon said she wanted to make it clear to the public that the complete cost plan will include technology and furniture. Mr. Armendariz responded the Vice Mayor was correct.

MOTION to note receipt and file.

M/S: Livengood, Polanski.

Ayes: 5

***RA6.
AFFORDABLE HOUSING
(SHAPELL)**

Approved authorization to enter into negotiations with Shapell Industries of Northern California to provide Agency Finance Assistance from its 20% Affordable Housing Set-Aside funds.

***RA7.
INVESTMENT STATUS**

Noted receipt and filed the investment report for the quarter ended December 31, 2003.

***RA8.
LITIGATION EXPENSE**

Approved a budget transfer to add \$250,000 to the City Attorney's Department budget for Fiscal Year 2003-2004 for public works/claims litigation expenses with funding of \$200,000 from the Redevelopment Agency undesignated reserve and \$50,000 from the non-departmental contingent reserve fund, and approve two purchase orders to Meyers Nave in the amounts of \$200,000 and \$50,000 for public works related litigation.

**RA9.
RDA ADJOURNMENT**

There being no further Agency business, Mayor Esteves adjourned the Redevelopment Agency meeting at 7:44 p.m.

The City Council meeting continued.

REPORTS OF OFFICERS & BOARDS

**1.
Statewide Ballot Initiative**

Mayor Esteves reported this item was placed on the agenda at his request, and he was asking the Council to adopt a resolution supporting the Statewide ballot initiative entitled the "Local Taxpayers and Public Safety Protection Act" to put the voters in charge of whether local tax dollars should be used to fund state services. Mayor Esteves said it would not raise taxes, repeal laws the state has already passed, require the return of property taxes already taken, nor affect funding of schools, and it would not prevent structural reform of the fiscal system; it would simply require that structural changes be planned collaboratively by state and local leaders and approved by the voters.

Vice Mayor Dixon commented that this was part of the process that has been going on for a few years but was actively addressed at the last League of California Cities meeting she attended. Vice Mayor Dixon said this was a very complicated process to explain that goes back to language in Proposition 13 that created the ERAF (Educational Revenue Augmentation Funds) shift of local dollars from cities and counties. Vice Mayor Dixon further stated this has to stop and she was thoroughly in favor of it.

Councilmember Polanski said that when she attended the League of California Cities meeting, this was a big item of discussion and how to keep local control locally; she was supportive; and it doesn't raise taxes but keeps local funds locally.

Councilmember Livengood asked for confirmation that this initiative would not raise the vehicle license fees back to the level under Governor Davis but would leave Governor

Schwarzenegger's action in place. Mayor Esteves confirmed that was correct. Councilmember Livengood said this measure would protect public safety and it was important that people understand that public safety is the city's most important job, there were a lot of other things that the city's does that were also important, and it was essential to keep a balanced City. Councilmember Livengood thanked the Mayor for putting this item on the agenda and expressed his support for the initiative.

MOTION to adopt Resolution No. 7382 supporting a Statewide Ballot Initiative entitled the "Local Taxpayers and Public Safety Protection Act" to require voter approval before the State Government may take local tax funds, and direct the City Clerk to send a copy to the League of California Cities.

M/S: Esteves, Polanski.

Ayes: 5

**3.
Dr. Martin Luther King, Jr.
Recognition**

Councilmember Livengood said he asked that this item be placed on the agenda at the last meeting commenting that what got him thinking about this was the Mayor's comments at the last meeting regarding Dr. King. Councilmember Livengood further stated that 18 years ago, when he was Mayor, the City of Milpitas was one of the first cities in the entire state to recognize Dr. King's birthday as a City holiday; he thought it was time to go a step further and make a significant recognition of Dr. King and all he did for our country and our city. Councilmember Livengood further stated that Dr. King's influence was felt very strongly in the community, he wanted to hear from the public but had an idea he wanted to throw out. Councilmember Livengood said when he thought of some of the things Dr. King's felt strongly about, he thought of knowledge and education as things Dr. King cherished and with knowledge came education, tolerance and equality; when he thought of those type of things that Dr King felt strongly about, one thing that jumped out in his mind was naming the new library the City is about to build after Dr. King; other cities have named their libraries after Dr. King, and he thought it was a good idea and an appropriate recognition of his many contributions to our society. Councilmember Livengood commented that it would need to be discussed with members of the community, he had discussed it with Supervisor McHugh, who was already checking into the County policy for naming libraries, since the library is run by the County; however, everybody needed to be heard from on this. Councilmember Livengood said he would continue to talk to people in the community, he had been in touch with members of the local NAACP and talked about their experience in San Jose, he would continue to work on this issue and hoped that the citizens would come forward and give their opinions and ideas of an appropriate recognition, and he looked forward to bringing this back for future consideration by this Council.

Vice Mayor Dixon said she agreed with Councilmember Livengood that 18 years was a long time coming, she would like to see it done with expediency, and would like to see Councilmember Livengood Chair a Subcommittee comprised of a cross-section of the community and come back to the Council with a recommendation within the next few months. Vice Mayor Dixon pointed that many cities also observe March 31st in honor of Cesar Chavez, who was of particular interest to her because she had the rare opportunity to not only meet him in 1967 but to march with him; she would also like to do something for Cesar Chavez in the same manner as being considered for Dr. King because of the City's large Hispanic community and the City's history, and would like to see that go forward also as a request.

Councilmember Polanski said she agreed with the comments that had been made and thought it was wonderful that this was brought forward; she thought a subcommittee would be the appropriate way to bring all these parties together to look at Cesar Chavez and also look at others who have made a difference, which she felt would be especially appropriate given this was the City's 50th anniversary.

Councilmember Gomez said he agreed with his colleagues, noting that the City always prides itself as being on the cutting edge of history; this was definitely a way to do it honoring two individuals that have had a lasting impression on all of us; he thought this was a symbolic way

of honoring what they have done and sharing their names and contributions with future generations, so he would be supporting any motion brought forward

Mayor Esteves said he thought this was a community issue and it was important to get community input; he supported a subcommittee, however, he would like to see options or alternatives, there were a lot of factors to consider, and he was in favor of going ahead with the recommendation of forming a subcommittee headed by Councilmember Livengood.

Gomez said he would also like to be on the subcommittee.

Councilmember Livengood offered a MOTION to take the two concepts presented tonight, Dr. Martin Luther King and Cesar Chavez, and form a subcommittee that will come back to the Council after hearing from the community with options on different buildings or recognitions for those people.

Mayor Esteves commented that the agenda item was for Dr. Martin Luther King and suggested separating the two issues and having two committees with Vice Mayor Dixon heading another committee to honor Cesar Chavez rather than mixing the two. Mayor Esteves asked the City Attorney if it was appropriate to only address Martin Luther King since that was on the agenda. City Attorney Steve Mattas responded that if the Council is creating a subcommittee to take public input, it could do that and be more inclusive than just Dr. King because the Council wasn't taking a final action.

Mayor Esteves asked if any members of the audience wished to comment.

Ed Connor said he thought it was a good idea but instead of naming a specific building, he would prefer to name rooms in a building after the various people of the nations represented here, also include American Indians, and leave a few openings for the new people coming into our town from different continents of the world.

Carmen Montano said she was really glad Councilmember Livengood proposed this, she believed Martin Luther King, Jr. Library would be the best, if it wasn't for Dr. King, there would not have been Cesar Chavez because Dr. King paved the road for a lot of minorities.

Pastor Jones said that since the item on the agenda was about Dr. Martin Luther King, he felt very strongly that Dr. Martin Luther King should be recognized and he agreed with the speaker before him; it was because of what Dr. King did that we now have freedom, all the races have benefited from the sacrifices he made, and the City should make some special recognition for Dr. Martin Luther King.

A lady who did not give her name said she felt very strongly about doing something special for Dr. Martin Luther King because he paved the way for many of us here; we can look at the history and see what has happened; she thought the Council should have had something in the calendar about Martin Luther King Day but there was nothing mentioned in the calendar so she thought we should be mindful of those things and what he did for the whole country.

Mayor Esteves said he agreed that there was no question about honoring Dr. Martin Luther King and said he was ready for a motion.

Councilmember Polanski commented that she hadn't heard anyone on the Council who wasn't supportive of honoring Dr. Martin Luther King, Milpitas has a very diverse community with the foundation having been laid years ago; she thought it would be good if a committee made up of Councilmembers and members of the community (members from the City's commissions, and then members of the public and members of the NAACP that Councilmember Livengood said he had talked with) the committee could also get information from the public as to whether there are others as well as Cesar Chavez we would want to see honored in our community as we have done by naming many of the streets after City founders.

Councilmember Polanski said she thought there was no one that doesn't want to recognize Dr. Martin Luther King and what he has done for our nation.

MOTION to form a subcommittee to look at both the issues discuss tonight of appropriate recognitions of Dr. Martin Luther King and Cesar Chavez, the subcommittee will include community members and will report back to the Council with options for both individuals on how to recognize each appropriately.

M/S: Livengood, Dixon.

Mayor Esteves asked for clarification that the subcommittee would include Councilmember Livengood and Councilmember Gomez. Councilmember Livengood said that was his assumption.

VOTE ON MOTION:

ayes: 5

ADJOURNMENT

There being no further Council business, Mayor Esteves adjourned the City Council meeting at 8:13 p.m.

Gail Blalock
City Clerk